

FEDERAL RESERVE SYSTEM

Fulton Financial Corporation
Lancaster, Pennsylvania

Order Approving the Merger of Bank Holding Companies

Fulton Financial Corporation (“Fulton”), a financial holding company within the meaning of the Bank Holding Company Act (“BHC Act”), has requested the Board’s approval under section 3 of the BHC Act¹ to merge with Columbia Bancorp (“Columbia”) and acquire its subsidiary bank, The Columbia Bank (“Columbia Bank”), both of Columbia, Maryland.²

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (70 Federal Register 61,826 (2005)). The time for filing comments has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3 of the BHC Act.

Fulton, with total consolidated assets of approximately \$12.3 billion, operates 14 subsidiary insured depository institutions in Pennsylvania, New Jersey, Virginia, Maryland, and Delaware, as well as a nondepository trust company in Pennsylvania. Fulton is the ninth largest depository organization in Pennsylvania, controlling deposits of approximately \$5.1 billion, which represent approximately 2.3 percent of the total amount of deposits of insured depository institutions in the

¹ 12 U.S.C. section 1842.

² In addition, Fulton has requested the Board’s approval to hold and exercise a warrant to purchase up to 19.9 percent of Columbia’s common stock. The warrant would expire on consummation of the proposal.

state (“state deposits”).³ In Maryland, Fulton is the 20th largest depository organization, controlling deposits of approximately \$481.3 million, which represent less than 1 percent of state deposits.

Columbia, with total consolidated assets of approximately \$1.3 billion, is the 12th largest depository organization in Maryland, controlling deposits of approximately \$976.5 million, which represent approximately 1 percent of state deposits. On consummation of the proposal, Fulton would become the 10th largest depository organization in Maryland, controlling deposits of approximately \$1.5 billion, which represent approximately 1.6 percent of state deposits.⁴ Fulton would have consolidated assets of approximately \$13.8 billion.

Interstate Analysis

Section 3(d) of the BHC Act allows the Board to approve an application by a bank holding company to acquire control of a bank located in a state other than the home state of such bank holding company if certain conditions are met. For purposes of the BHC Act, the home state of Fulton is Pennsylvania,⁵ and Columbia is located in Maryland.⁶

³ In this context, insured depository institutions include commercial banks, savings banks, and savings associations.

⁴ Asset data are as of September 30, 2005. Deposit data and state rankings are as of June 30, 2005, and are adjusted to reflect mergers and acquisitions completed through January 6, 2006.

⁵ A bank holding company’s home state is the state in which the total deposits of all subsidiary banks of the company were the largest on July 1, 1966, or the date on which the company became a bank holding company, whichever is later. 12 U.S.C. section 1841(o)(4)(C).

⁶ For purposes of section 3(d), the Board considers a bank to be located in the states in which the bank is chartered or headquartered or operates a branch. 12 U.S.C. sections 1841(o)(4)-(7) and 1842(d)(1)(A) and (d)(2)(B).

Based on a review of all the facts of record, including a review of relevant state statutes, the Board finds that all conditions for an interstate acquisition enumerated in section 3(d) are met in this case.⁷ Accordingly, the Board is permitted to approve the proposal under section 3(d) of the BHC Act.

Competitive Considerations

Section 3 of the BHC Act prohibits the Board from approving a proposed bank acquisition that would result in a monopoly or would be in furtherance of any attempt to monopolize the business of banking in any relevant banking market. The BHC Act also prohibits the Board from approving a proposed bank acquisition that would substantially lessen competition in any relevant banking market, unless the Board finds that the anticompetitive effects of the proposal clearly are outweighed in the public interest by the probable effect of the proposal in meeting the convenience and needs of the community to be served.⁸

Fulton and Columbia compete directly in the Washington, D.C./Maryland/Virginia/West Virginia banking market (“Washington, D.C. market”).⁹ The Board has reviewed carefully the competitive effects of the

⁷ 12 U.S.C. sections 1842(d)(1)(A)-(B), 1842(d)(2)(A)-(B). Fulton is adequately capitalized and adequately managed, as defined by applicable law. Maryland does not have a minimum age requirement applicable to the proposal. On consummation of the proposal, Fulton would control less than 10 percent of the total amount of deposits of insured depository institutions in the United States and less than 30 percent of the total amount of deposits of insured depository institutions in Maryland. All other requirements of section 3(d) would be met on consummation of the proposal.

⁸ 12 U.S.C. section 1842(c)(1).

⁹ The Washington, D.C. market includes: the Washington, D.C. Radially Metropolitan Area (“RMA”); the non-RMA portions of Fauquier and Loudoun Counties, and the cities of Alexandria, Fairfax, Falls Church, and Manassas, all in

proposal in this banking market in light of all the facts of record. In particular, the Board has considered the number of competitors that would remain in the market, the relative shares of total deposits of depository institutions in the market (“market deposits”) controlled by Fulton and Columbia,¹⁰ the concentration level of market deposits and the increase in this level as measured by the Herfindahl-Hirschman Index (“HHI”) under the Department of Justice Merger Guidelines (“DOJ Guidelines”),¹¹ and other characteristics of the market.

Consummation of the proposal would be consistent with Board precedent and the DOJ Guidelines in the Washington, D.C. market.¹² The market

Virginia; the non-RMA portions of Calvert, Charles, Frederick, and St. Mary's Counties, all in Maryland; and Jefferson County, West Virginia.

¹⁰ Deposit and market share data are as of June 30, 2005, reflect mergers and acquisitions through January 6, 2006, and are based on calculations in which the deposits of thrift institutions are included at 50 percent. The Board previously has indicated that thrift institutions have become, or have the potential to become, significant competitors of commercial banks. See, e.g., Midwest Financial Group, 75 Federal Reserve Bulletin 386, 387 (1989); National City Corporation, 70 Federal Reserve Bulletin 743, 744 (1984). Thus, the Board regularly has included thrift deposits in the calculation of market share on a 50 percent weighted basis. See, e.g., First Hawaiian, Inc., 77 Federal Reserve Bulletin 52, 55 (1991).

¹¹ Under the DOJ Guidelines, a market is considered unconcentrated if the post-merger HHI is under 1000, moderately concentrated if the post-merger HHI is between 1000 and 1800, and highly concentrated if the post merger HHI exceeds 1800. The Department of Justice (“DOJ”) has informed the Board that a bank merger or acquisition generally will not be challenged (in the absence of other factors indicating anticompetitive effects) unless the post-merger HHI is at least 1800 and the merger increases the HHI by more than 200 points. The DOJ has stated that the higher than normal HHI thresholds for screening bank mergers and acquisitions for anticompetitive effects implicitly recognize the competitive effects of limited-purpose and other nondepository financial institutions.

¹² Fulton is the 35th largest depository organization in the Washington, D.C. market, controlling deposits of approximately \$177.3 million, which represent less than 1 percent of market deposits. Columbia Bank is the 26th largest depository

would remain unconcentrated as measured by the HHI and numerous competitors would remain in the market.

The Department of Justice has reviewed the anticipated competitive effects of the proposal and advised the Board that consummation of the proposal would not likely have a significantly adverse effect on competition in any relevant banking market. In addition, the appropriate banking agencies have been afforded an opportunity to comment and have not objected to the proposal.

Based on all the facts of record, the Board concludes that consummation of the proposal would not have a significantly adverse effect on competition or on the concentration of resources in the Washington, D.C. market or in any other relevant banking market. Accordingly, the Board has determined that competitive considerations are consistent with approval.

Financial, Managerial, and Supervisory Considerations

Section 3 of the BHC Act requires the Board to consider the financial and managerial resources and future prospects of the companies and depository institutions involved in the proposal and certain other supervisory factors. The Board has considered these factors in light of all the facts of record, including confidential reports of examination, other supervisory information received from the primary federal supervisors of the organizations involved in the proposal, publicly reported and other financial information, information provided by Fulton, and public comment received on the proposal.

institution in the market, controlling deposits of approximately \$308.6 million, which represent less than 1 percent of market deposits. On consummation, Fulton would operate the 21st largest depository organization in the market, controlling deposits of approximately \$485.9 million, which represent less than 1 percent of market deposits. The HHI would remain unchanged at 868. Ninety-one depository institutions would remain in the banking market after consummation of the proposal.

In evaluating financial factors in expansion proposals by banking organizations, the Board reviews the financial condition of the organizations involved on both a parent-only and consolidated basis, as well as the financial condition of the subsidiary banks and significant nonbanking operations. The Board considers a variety of measures in this evaluation, including capital adequacy, asset quality, and earnings performance. In assessing financial factors, the Board consistently has considered capital adequacy to be especially important. The Board also evaluates the financial condition of the combined organization at consummation, including its capital position, asset quality, and earnings prospects, and the impact of the proposed funding of the transaction.

Fulton, each of Fulton's subsidiary banks, and Columbia Bank are well capitalized and would remain so on consummation of the proposal. Based on its review of the record, the Board finds that Fulton has sufficient financial resources to effect the proposal. The transaction is structured as a combination of cash and an exchange of shares. The cash portion of the transaction would be funded by issuing trust preferred securities.

The Board also has considered the managerial resources of the organizations involved and the proposed combined organization. The Board has reviewed the examination records of Fulton and its subsidiary banks, Columbia, and Columbia Bank, including assessments of their management, risk-management systems, and operations. In addition, the Board has considered its supervisory experiences and those of the other relevant banking supervisory agencies with the organizations and their records of compliance with applicable banking law. Fulton, each of Fulton's subsidiary banks, Columbia, and Columbia Bank are considered to be well managed. The Board also has considered Fulton's plans for

implementing the proposal, including the proposed management after consummation.

Based on all the facts of record, the Board concludes that considerations relating to the financial and managerial resources and future prospects of the organizations involved in the proposal are consistent with approval, as are the other supervisory factors under the BHC Act.

Convenience and Needs Considerations

In acting on a proposal under section 3 of the BHC Act, the Board also must consider the effects of the proposal on the convenience and needs of the communities to be served and take into account the records of the relevant insured depository institutions under the Community Reinvestment Act (“CRA”).¹³ The CRA requires the federal financial supervisory agencies to encourage insured depository institutions to help meet the credit needs of the local communities in which they operate, consistent with their safe and sound operation, and requires the appropriate federal financial supervisory agency to take into account an institution’s record of meeting the credit needs of its entire community, including low- and moderate-income (“LMI”) neighborhoods, in evaluating bank expansionary proposals.¹⁴

The Board has considered carefully all the facts of record, including evaluations of the CRA performance records of Fulton’s subsidiary insured depository institutions and Columbia Bank, data reported by Fulton’s subsidiary banks and Columbia Bank under the Home Mortgage Disclosure Act (“HMDA”),¹⁵ other information provided by Fulton, confidential supervisory

¹³ 12 U.S.C. section 2901 et seq.

¹⁴ 12 U.S.C. section 2903.

¹⁵ 12 U.S.C. section 2801 et seq.

information, and public comment received on the proposal. A commenter opposed the proposal and alleged, based on 2004 data reported under HMDA, that Fulton engaged in discriminatory treatment of minority individuals in its home mortgage lending operations.

A. CRA Performance Evaluations

As provided in the CRA, the Board has evaluated the convenience and needs factor in light of the evaluations by the appropriate federal supervisors of the CRA performance records of the relevant insured depository institutions. An institution's most recent CRA performance evaluation is a particularly important consideration in the applications process because it represents a detailed, on-site evaluation of the institution's overall record of performance under the CRA by its appropriate federal supervisor.¹⁶

Fulton's 14 subsidiary banks each received a rating of "satisfactory" or "outstanding" at its most recent CRA performance evaluation.¹⁷

Columbia Bank received a "satisfactory" rating at its most recent CRA performance evaluation by the Federal Deposit Insurance Corporation ("FDIC"), as of August 9, 2004. Fulton represented that it intends to maintain Columbia Bank's CRA program on consummation of the proposal.

B. HMDA and Fair Lending Record

The Board has considered carefully Fulton's lending record and HMDA data in light of public comment about its record of lending to minorities. A commenter alleged, based on 2004 HMDA data, that certain Fulton subsidiary

¹⁶ See Interagency Questions and Answers Regarding Community Reinvestment, 66 Federal Register 36,620 and 36,639 (2001).

¹⁷ The appendix lists the most recent CRA performance ratings of Fulton's subsidiary banks.

banks made higher-cost loans¹⁸ to African Americans and Hispanics more frequently than to nonminorities in various states and Metropolitan Statistical Areas (“MSAs”). The commenter also asserted that some Fulton subsidiary banks disproportionately excluded or denied applications by African-American and Hispanic applicants for HMDA-reportable loans.¹⁹ The Board reviewed the HMDA data for 2004 reported by certain subsidiary banks of Fulton in their assessment areas and in certain MSAs where portions of the banks’ assessment areas are located.

Although the HMDA data may reflect certain disparities in the rates of loan applications, originations, denials, or pricing among members of different racial or ethnic groups in certain local areas, the HMDA data provide an insufficient basis by themselves on which to conclude whether or not Fulton’s subsidiary banks are excluding any racial or ethnic group or imposing higher credit costs on these groups on a prohibited basis. The Board recognizes that HMDA data alone, even with the recent addition of pricing information, provide only limited information about the covered loans.²⁰ HMDA data, therefore, have

¹⁸ Beginning January 1, 2004, the HMDA data required to be reported by lenders were expanded to include pricing information for loans on which the Annual Percentage Rate (APR) exceeds the yield for U.S. Treasury securities of comparable maturity by 3 percentage points for first-lien mortgages and by 5 percentage points for second-lien mortgages. 12 CFR 203.4.

¹⁹ The majority of the commenter’s concerns related to 2004 HMDA data reported by Resource Bank, Virginia Beach, Virginia. Fulton acquired Resource Bank in April 2004.

²⁰ The data, for example, do not account for the possibility that an institution’s outreach efforts may attract a larger proportion of marginally qualified applicants than other institutions attract and do not provide a basis for an independent assessment of whether an applicant who was denied credit was, in fact, creditworthy. In addition, credit history problems, excessive debt levels relative to

limitations that make them an inadequate basis, absent other information, for concluding that an institution has engaged in illegal lending discrimination.

The Board is nevertheless concerned when HMDA data for an institution indicate disparities in lending and believes that all banks are obligated to ensure that their lending practices are based on criteria that ensure not only safe and sound lending but also equal access to credit by creditworthy applicants regardless of their race. Because of the limitations of HMDA data, the Board has considered these data carefully in light of other information, including examination reports that provide on-site evaluations of compliance by Fulton with fair lending laws. In the fair lending reviews conducted in conjunction with the most recent CRA evaluations of Fulton's subsidiary depository institutions, examiners noted no substantive violations of applicable fair lending laws.

The record also indicates that Fulton has taken steps to ensure compliance with fair lending laws and other consumer protection laws. Fulton represented that it undertakes significant monitoring of compliance in its mortgage lending operations by using a wide variety of audit and review programs, including loan file reviews, statistical analyses, and exception reviews. Fulton also performs a second review of all residential mortgage loan applications scheduled for denial to verify that no factors have been overlooked in the analysis of the application and to determine whether the applicant qualifies for any other available programs.

Fulton represented that it intends to maintain Columbia Bank's fair lending policies and procedures at the bank on consummation of the proposal,

income, and high loan amounts relative to the value of the real estate collateral (reasons most frequently cited for a credit denial or higher credit cost) are not available from HMDA data.

which include a quality-control review performed by an outside company. The quality-control review features statistical sampling and a random evaluation of denied loans and third-party originations. The review also includes verification of origination documents. Fulton represented that Columbia Bank's fair lending policies and procedures would be subject to oversight by Fulton on consummation of the proposal.

The Board also has considered the HMDA data in light of other information, including the overall CRA performance records of each of Fulton's subsidiary banks. These efforts demonstrate that Fulton is active in meeting the convenience and needs of its entire community.

C. Conclusion on Convenience and Needs and CRA Performance

The Board has carefully considered all the facts of record, including reports of examination of the CRA records of the institutions involved, information provided by Fulton, public comment received on the proposal, and confidential supervisory information. The Board notes that the proposal would provide customers of Columbia with a broader array of products and services, including personal and corporate trust services, new leasing products, and expanded branch and ATM networks. Based on a review of the entire record, and for the reasons discussed above, the Board concludes that considerations relating to the convenience and needs factor and the CRA performance records of the relevant depository institutions are consistent with approval.

Conclusion

Based on the foregoing and all the facts of record, the Board has determined that the application should be, and hereby is, approved.²¹ In reaching

²¹ The commenter requested that the Board hold a public meeting or hearing on the proposal. Section 3 of the BHC Act does not require the Board to hold a public

its conclusion, the Board has considered all the facts of record in light of the factors that it is required to consider under the BHC Act.²² The Board's approval is specifically conditioned on compliance by Fulton with the conditions imposed in this order and the commitments made to the Board in connection with the application. For purposes of this action, the conditions and commitments are deemed to be conditions imposed in writing by the Board in connection with its findings and decision herein and, as such, may be enforced in proceedings under applicable law.

hearing on an application unless the appropriate supervisory authority for the bank to be acquired makes a timely written recommendation of denial of the application. The Board has not received such a recommendation from the appropriate supervisory authority. Under its regulations, the Board also may, in its discretion, hold a public meeting or hearing on an application to acquire a bank if a meeting or hearing is necessary or appropriate to clarify factual issues related to the application and to provide an opportunity for testimony. 12 CFR 225.16(e). The Board has considered carefully the commenter's request in light of all the facts of record. In the Board's view, the commenter had ample opportunity to submit its views and, in fact, submitted written comments that the Board has considered carefully in acting on the proposal. The commenter's request fails to demonstrate why its written comments do not present its views adequately or why a meeting or hearing otherwise would be necessary or appropriate. For these reasons, and based on all the facts of record, the Board has determined that a public meeting or hearing is not required or warranted in this case. Accordingly, the request for a public meeting or hearing on the proposal is denied.

²² The commenter also requested that the Board extend the comment period on the proposal. As previously noted, the Board has accumulated a significant record in this case, including reports of examination, confidential supervisory information, public reports and information, and public comment. Moreover, the BHC Act and Regulation Y require the Board to act on proposals submitted under those provisions within certain time periods. Based on a review of all the facts of record, the Board has concluded that the record in this case is sufficient to warrant action at this time and that further delay in considering the proposal is not necessary.

The proposed transaction may not be consummated before the fifteenth calendar day after the effective date of this order, or later than three months after the effective date of this order, unless such period is extended for good cause by the Board or the Federal Reserve Bank of Philadelphia, acting pursuant to delegated authority.

By order of the Board of Governors,²³ effective January 17, 2006.

(signed)

Robert deV. Frierson
Deputy Secretary of the Board

²³ Voting for this action: Chairman Greenspan, Vice Chairman Ferguson, and Governors Bies, Olson, and Kohn.

APPENDIX

CRA Ratings of Fulton's Subsidiary Banks

Bank	CRA Rating	Date	Supervisor
FNB Bank, National Association Danville, Pennsylvania	Satisfactory	June 9, 2003	Office of the Comptroller of the Currency ("OCC")
Fulton Bank Lancaster, Pennsylvania	Satisfactory	October 21, 2002	FDIC
Lafayette Ambassador Bank Easton, Pennsylvania	Outstanding	December 1, 2003	Federal Reserve Bank of Philadelphia ("FRB Phil.")
Lebanon Valley Farmers Bank Lebanon, Pennsylvania	Outstanding	February 22, 2005	FRB Phil.
Premier Bank Doylestown, Pennsylvania	Satisfactory	January 5, 2004	FRB Phil.
Swineford National Bank Middleburg, Pennsylvania	Satisfactory	March 7, 2005	OCC
The Bank Woodbury, New Jersey	Outstanding	January 18, 2005	FDIC
First Washington State Bank Windsor, New Jersey	Satisfactory	March 1, 2004	FDIC
Skylands Community Bank Hackettstown, New Jersey	Satisfactory	April 28, 2005	FDIC
Somerset Valley Bank Somerville, New Jersey	Satisfactory	January 21, 2004	FDIC
Hagerstown Trust Company Hagerstown, Maryland	Satisfactory	January 18, 2005	FDIC
The Peoples Bank of Elkton Elkton, Maryland	Outstanding	December 30, 2002	FDIC
Resource Bank Virginia Beach, Virginia	Satisfactory	March 15, 2004	Federal Reserve Bank of Richmond
Delaware National Bank Georgetown, Delaware	Outstanding	January 6, 2003	OCC